IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WP(C).No. 26426 of 2007(S)

PETITIONER:

MARTIN JOSEPH,
NEDUNILATH, KUNDANOORE,
MARADU- 682 304.

BY ADV. SRI.P.F.FRANCIS

RESPONDENTS:
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1. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO STATE,
GOVERNMENT SECRETARIAT, TRIVANDRUM.

2. THE DIRECTOR GENERAL OF POLICE,
TRIVANDRUM.

BY GOVERNMENT PLEADER SMT.MEERA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.P.(C). No. 26426 of 2007-S

Dated this the 5th day of September, 2007.

J U D G M E N T

H.L.Dattu, C.J.

The petitioner is the public spirited citizen and also a tax payer. He has filed this writ petition, inter alia seeking the following reliefs:

> "a). Issue a writ of mandamus or any other appropriate writ, direction or order and direct the respondents not to compel the petitioner and the other two wheeler drivers to use the helmet or to initiate prosecution against them in not using helmet.
>
> b). Direct the respondents to issue strict direction to police not to torture or harass the person who are riding the two wheelers with or without helmet."

(2). A Full Bench of this court in the case of **Narayanan Nair Vs. State of Kerala (2003 (3) KLT 676 (F.B.)** had directed the State Government to implement the provisions of Section 129 of the Motor Vehicles Act. In the above quoted judgment it was observed that every person driving or riding on a motor cycle shall while in public place, wear protective headgear.

(3). After the disposal of the matter by the Full Bench of this court since the respondents had not implemented the orders and directions issued thereunder, the petitioner in the afore-said petition has approached this court by filing a contempt petition, to take appropriate proceedings against the respondents for having not implemented the orders and directions issued by the Full Bench. When the matter had come before us, on the undertaking given by the learned Government Advocate that the orders and directions issued by this court will be fully implemented within a particular

time frame, we had dropped the contempt proceedings. After the disposal of the contempt proceedings, now the State Government has implemented the provisions of Section 129 of the Motor Vehicles Act and also the orders and directions issued by this court.

(4). The petitioner in this writ petition wants us to direct the police authorities not to insist upon the wearing of protective headgear. If that relief is granted by us, we will be literally passing an order contrary to the orders and directions issued by the Full Bench of this court in **Narayanan Nair's** case. That, in our opinion, is impermissible. Therefore, we decline to entertain this writ petition. The writ petition requires to be rejected and it is rejected.

Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

MS